

SENATE BILL 898

By Campfield

AN ACT to amend Tennessee Code Annotated, Title 39, Chapter 12; Title 39, Chapter 14; Title 39, Chapter 16 and Title 39, Chapter 17, relative to disruptive and illegal conduct.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

WHEREAS, the State of Tennessee is a right to work state; and

WHEREAS, the state's right to work laws are founded on the basic principle that every individual has an inherent right to choose if they want to join a union or an employee organization, and this right to choose should not impact their employment; and

WHEREAS, the State of Tennessee recognizes the importance and necessity of fostering economic development and job creation; and

WHEREAS, certain reprehensible activities that entities may engage in during a corporate campaign, such as bribery, intimidation and coercion, can make the state an unwelcoming and dangerous place for new business and job growth; and

WHEREAS, activities such as bribery, intimidation, extortion, racketeering and coercion are illegal and present a substantial risk to public safety and the well-being of the state's citizens, workers and businesses; and

WHEREAS, the conduct of picketing, if done in an unlawful manner or for an unlawful purpose, is not beyond the control and responsibilities of the State of Tennessee; and

WHEREAS, intentional and reckless acts causing damage to someone else's property should be punished; and

WHEREAS, the state has a compelling interest in protecting the safety and well-being of the public from violence, threats of violence, intimidation and other disruptive behavior that may be caused by mass picketing; and

WHEREAS, certain limited and reasonable restrictions are deemed necessary to protect our citizens from these harms; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-16-102(b), is amended by designating the existing language as subdivision (1) and adding the following new subdivision (2):

(2) It is no defense to prosecution under this section that the person who sought to influence a public official did so on behalf of a public or private organization, corporation, union, agency or other entity's behalf, for purposes of an organizing campaign or any other lawful purpose.

SECTION 2. Tennessee Code Annotated, Section 39-17-309(b), is amended by adding the following new subdivision:

(5) Damages, harms, injures or threatens to injure or coerce a business, or any employee or representative of the business with the intent to unlawfully intimidate the business or its employees from exercising their rights, which are protected by state and federal law, in an effort to obtain something of value for a public or private organization, corporation, union, agency or other entity, including, but not limited to, a neutrality agreement, card check agreement, collective bargaining recognition, or other objective of a corporate campaign. For purposes of this subdivision (b)(5), "corporate campaign" means any organized effort to unlawfully bring pressure on an entity, other than through collective bargaining, or any other activity protected by federal law, for the purpose of influencing a labor relations goal or objective.

SECTION 3. Tennessee Code Annotated, Section 39-14-112(a), is amended by adding the following new subdivisions:

(3)

(A) Restrict a business, a union, or the owners or employees of a business, from exercising their rights, which are protected under state and

federal law, in an effort to obtain something of value for a public or private organization, corporation, union, agency or other entity.

(B) For purposes of this subdivision (a)(3):

(i) "Corporate campaign" means any organized effort to unlawfully bring pressure on an entity, other than through collective bargaining, or any other activity protected by federal law, for the purpose of influencing a labor relations goal or objective; and

(ii) "Something of value" includes, but is not limited to, a neutrality agreement, card check agreement, recognition, or other objective of a corporate campaign.

SECTION 4. Tennessee Code Annotated, Section 39-17-301(3), is amended by adding the following language immediately after the language "which," and immediately preceding the language "by tumultuous and violent conduct":

whether or not participating in any otherwise lawful activity, such as a union or employee organized event,

SECTION 5. Tennessee Code Annotated, Section 39-12-204, is amended by designating the existing subsection (d) as a new subsection (g); by renumbering existing subsections (e) and (f) accordingly; and by adding the following language as a new subsection (f):

(f)

(1) It is unlawful for any person, to utilize a pattern of racketeering activity in an effort to restrict a business, a union, or the owners or employees of a business, from exercising their rights, which are protected under state and federal law, in an effort to obtain something of value for a public or private organization, corporation, union, agency or other entity.

(2) For purposes of subdivision (f)(1):

(A) "Corporate campaign" means any organized effort to unlawfully bring pressure on an entity, other than through collective bargaining, or any other activity protected by federal law, for the purpose of influencing a labor relations goal or objective; and

(B) "Something of value" includes, but is not limited to, a neutrality agreement, card check agreement, recognition, or other objective of a corporate campaign.

SECTION 6. Tennessee Code Annotated, Section 39-12-204, is further amended by adding the following language as a new subsection (h):

(h) It is unlawful for any person to conspire with another, for the purpose of disrupting lawful commerce in places of business, where such activity constitutes an assault or causes physical injury to any individual, located in or around the place of business. For purposes of this subsection, "person" shall include any entity as defined in § 39-12-203 which sponsors or otherwise intentionally provides aid for the goal of commission of any act made unlawful by this subsection.

SECTION 7. Tennessee Code Annotated, Section 39-12-206, is amended by adding the following language as a new subsection (n):

(n) In any civil action for violation of § 39-12-204(h), the prevailing plaintiff shall be entitled to treble damages upon a showing that the conspiracy constitutes an assault or causes physical injury to such plaintiff.

SECTION 8. Tennessee Code Annotated, Section 39-17-307, is amended by designating the existing language as a new subsection (g); by redesignating the remaining subsection (d) as subsection (c); and by adding the following new subsections:

(d)

(1) A person commits an offense who, without legal privilege, engages in any form of mass picketing activity in which:

(A) A picket constitutes an obstacle to the free ingress to and egress from an entrance to any place of employment, either by obstructing the free ingress and egress with the person's body or by placing a vehicle or other physical obstruction for such purpose;

(B) The mass picketing prevents the pursuit of any lawful work or employment;

(C) The picketing constitutes violence, threats of violence, intimidation or other disruptive behavior; or

(D) The mass picketing is of a private residence; provided, that such mass picketing shall not be prohibited to the extent that the same is authorized under state or federal constitutional provisions.

(2) Subdivision (d)(1) shall not apply to mass picketing at any governmental building or facility. For purposes of subdivision (d)(1), "mass picketing" means the assembly of persons in the use of pickets or demonstrations at or near any business, school, or private facility.

(e) A person commits an offense who, without legal privilege, engages in the targeted picketing of a private residence that has or intends the effect of interfering with the resident's right to quiet enjoyment, or where such targeted picketing of a private residence has or intends the effect of violence or intimidation; provided, that this subsection (e) shall not apply to private residences that are also places of employment and the targeted picketing in question relates to or is targeted at such employment.

(f) Upon proper showing, a person or business who is injured or threatened with injury shall be afforded relief in any court of competent jurisdiction to enjoin any behavior made unlawful by subsections (d) or (e).

SECTION 9. Tennessee Code Annotated Section 39-14-408(b), is amended by designating the existing subsection as a new subsection (e) and by adding the following as new, appropriately designated subdivisions:

( ) “Merchandise” includes any goods, chattels, foodstuffs or wares of any type of description, regardless of the value; and

( ) “Organized retail vandalism” is a corporation, partnership, or any other type of association, whether or not legally formed, that engages in retail vandalism.

SECTION 10. Tennessee Code Annotated, Section 39-14-408, is further amended by deleting existing subsection (c) in its entirety, and by adding the following new subsections (b),(c),(d) and (f):

(b) A person commits the offense of retail vandalism, if the person intentionally or recklessly damages property of another when either of the following applies:

(1) The property is used by its owner or possessor in the owner's or possessor's profession, business, trade, or occupation; or

(2) The person damages or marks the property owner's merchandise.

(c) A person commits aggravated retail vandalism, who in the course of retail vandalism, pollutes the property owner's merchandise.

(d) A person commits organized retail vandalism if the person organizes, coordinates, controls, supervises, finances, managed, aids or abets any of the activities of an organized retail vandalism enterprise.

(f) Acts of vandalism, including retail vandalism, are to be valued according to the provisions of § 39-11-106(a)(36) and punished as theft under § 39-14-105; provided, that:

(1) Aggravated retail vandalism is to be punished as a Class C felony if done so intentionally or knowingly, or a Class D felony if done so recklessly; and

(2) Organized retail vandalism is to be punished as a Class E felony.

SECTION 11. This act shall take effect July 1, 2013, the public welfare requiring it.